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U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Hartford Life Insurance Company

Serial No. 75/178,461

John R. Garber of Cooper & Durham LLP for Hartford Life Insurance Company.

Matthew J. Pappas, Trademark Examining Attorney, Law Office 104 (Sidney I. Moskowitz, Managing Attorney).

Before Hohein, Wendel and Rogers, Administrative Trademark Judges.

Opinion by Hohein, Administrative Trademark Judge:

An application has been filed by Hartford Life Insurance Company to register the mark "ARTISAN" for "life insurance underwriting services".[1]

Registration has been finally refused under Section 2(d) of the Trademark Act, 15 U.S.C. §1052(d), on the ground that applicant's mark, when applied to its services, so resembles the

[1] Ser. No. 75/178,461, filed on October 8, 1996, based upon an allegation of a bona fide intention to use such mark in commerce. Subsequently, by an amendment to allege use filed on February 18, 1997, the application was amended to assert dates of first use of December 10, 1996.

mark "ARTISAN," which is registered for "investment advisory services, securities brokerage services and mutual fund brokerage, distribution and investment services,"[2] as to be likely to cause confusion, mistake or deception.

Applicant has appealed. Briefs have been filed, but an oral hearing was not requested. We affirm the refusal to register.

Because the respective marks, as applicant concedes, are identical in all respects, the issue of whether there is a likelihood of confusion is dependent upon whether applicant's and registrant's services are sufficiently related that customers therefor would mistakenly believe that such services emanate from or are sponsored by the same source. Applicant, while conceding that the record contains "many registrations and advertisements which indicate that the same companies offer both insurance underwriting services and investment advisory services," nevertheless argues that since registrant, Artisan Partners Limited, "is not an insurance company and does not and can not offer insurance underwriting services of any kind[,] no likelihood of confusion can exist between the respective marks."

Aside from the fact, however, that applicant has offered no proof in support of its contention regarding the nature of registrant's business, we note that even if such were proven, it would be legally irrelevant. This is because it is

[2] Reg. No. 2,003,659, issued on September 24, 1996, which sets forth a date of first use anywhere of January 23, 1995 and a date of first use in commerce of March 27, 1995.

well settled that the issue of likelihood of confusion must be evaluated on the basis of the identifications of services set forth in the involved application and cited registration, regardless of what the record may reveal as to the particular nature of the respective services, their actual channels of trade, or the class of purchasers to which they are in fact directed and sold. See, e.g., Octocom Systems Inc. v. Houston Computer Services Inc., 918 F.2d 937, 16 USPQ2d 1783, 1787 (Fed. Cir. 1990) and Canadian Imperial Bank of Commerce, N.A. v. Wells Fargo Bank, 811 F.2d 1490, 1 USPQ2d 1813, 1815-16 (Fed. Cir. 1987). In particular, it is well established that, absent any specific limitations or restrictions in the identifications of services as listed in the application and the cited registration, the issue of likelihood of confusion must be determined in light of consideration of all normal and usual channels of trade and methods of distribution for the respective services. See, e.g., CBS Inc. v. Morrow, 708 F.2d 1579, 218 USPQ 198, 199 (Fed. Cir. 1983); Squirtco v. Tomy Corp., 697 F.2d 1038, 216 USPQ 937, 940 (Fed. Cir. 1983); and Paula Payne Products Co. v. Johnson Publishing Co., Inc., 473 F.2d 901, 177 USPQ 76, 77 (CCPA 1973).

Consequently, applicant is simply incorrect in its argument that "[t]he issue is not whether insurance underwriting and investment advisory services can be offered by the same company, but whether the owner of the cited reference mark is or is capable of offering both types of services." Instead, the question is whether purchasers and prospective consumers would be likely to view life insurance underwriting services as so closely

related to investment advisory services, securities brokerage services, and/or mutual fund brokerage, distribution and investment services that, when the respective services are marketed under the identical mark "ARTISAN," a common origin or affiliation would be assumed.

The Examining Attorney, as indicated above, relies upon the fact that the record contains nearly 30 use-based third-party registrations for marks which, in each instance, are registered for life (or credit life) insurance underwriting services, on the one hand, and investment advisory services, on the other. Moreover, several of the registrations of record also list mutual fund brokerage services. Although such registrations are not evidence that the different marks shown therein are in use or that the public is familiar with them, they nevertheless have some probative value to the extent that they serve to suggest that the financial services listed therein are of a kind which may emanate from a single source. See, e.g., In re Albert Trostel & Sons Co., 29 USPQ2d 1783, 1785-86 (TTAB 1993) and In re Mucky Duck Mustard Co. Inc., 6 USPQ2d 1467, 1470 (TTAB 1988) at n. 6. That such is indeed the case is borne out by various yellow pages advertisements which have also been made of record.

In view thereof, we concur with the Examining Attorney that applicant’s life insurance underwriting services and, in particular, registrant’s investment advisory services and mutual fund brokerage services are closely related financial services which would be offered and sold through the same channels of trade to the identical classes of purchasers. We accordingly

conclude that purchasers and prospective customers, who are familiar or acquainted with registrant's mark "ARTISAN" for investment advisory services and/or mutual fund brokerage, distribution and investment services, would reasonably be likely to assume, upon encountering applicant's identical mark "ARTISAN" for life insurance underwriting services, that such closely related financial services emanate from, or are sponsored by or affiliated with, the same source.

Decision: The refusal under Section 2(d) is affirmed.

G. D. Hohein

H. R. Wendel

G. F. Rogers
Administrative Trademark Judges,
Trademark Trial and Appeal Board